

Special and Regular Meeting of March 13, 2012
City Council Chambers, One Twin Pines Lane

SPECIAL MEETINGS

CLOSED SESSION – 7:05 P.M.

A. Conference with Labor Negotiator, Greg Scoles, pursuant to Government Code Section 54957.6: (AFSCME, MMCEA)

Attended by: Councilmembers Feierbach, Wozniak, Warden (arr 7:20), Lieberman, Braunstein, City Manager Scoles, City Attorney Rennie, Public Works Director Oskoui, Human Resources Director Dino, Finance Director Fil, and Labor Consultant Doughtie. City Clerk Cook was excused from attending.

ADJOURNMENT at this time being 7:30 P.M.

Terri Cook
Belmont City Clerk

This meeting was not tape recorded or videotaped

REGULAR MEETING

CALL TO ORDER 7:35 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Wozniak, Braunstein, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, City Attorney Rennie, Police Chief Mattei, Community Development Director de Melo, Finance Director Fil, Public Works Director Oskoui, Human Resources Director Dino, Parks and Recreation Director Gervais, Deputy Finance Director Lazzari, City Treasurer Violet, City Clerk Cook

PLEDGE OF ALLEGIANCE

Led by Vice Mayor Wozniak

REPORT FROM CLOSED SESSION

City Attorney Rennie stated that direction was given but no action taken.

SPECIAL PRESENTATIONS

Presentation by Dolly Goyal, Teen Services Librarian, Belmont Library

Dolly Goyal, Teen Services Librarian, described activities available at the library for teens. She noted that this program was sponsored by the Friends of the Belmont library and local businesses. She outlined upcoming activities, and noted that changes have been made to the computer center to accommodate more teens, and private study rooms are available. She explained that a textbook collection has been added for Carlmont High School students, which alleviates their need to carry books home. She outlined volunteer opportunities. She stated that

her efforts are as a result of a collaborative partnership between the library and the Parks and Recreation Department. She explained that attendance has steadily increased from five or ten participants per day to 25 to 35 per day.

Teen Services Librarian Goyal also explained that she oversees VOICES, the youth leadership group, which has 17 members from grades 7-12. She outlined the various monthly projects in which it has been involved. She thanked the Parks and Recreation Department staff for its assistance with her goals.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Jana Gibbs, Notre Dame de Namur Student, announced the ongoing creative speaker lecture series at the University. She described the upcoming Dance-a-Thon to be held on March 24th as a benefit for the seismic restoration of Ralston Hall.

Jeff Margolis, Belmont resident, expressed his appreciation that the City acquired the vacant land in the San Juan Canyon. He expressed concern regarding which lots will be developed, and questioned whether the City Council considered taxing the citizens to pay for this land.

Mayor Warden requested that Community Development Director de Melo contact Mr. Margolis to provide clarification on his questions.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Warden noted that the annual Commission Appreciation Dinner was held on March 12th. He thanked the staff members who were responsible for this event.

AGENDA AMENDMENTS

Councilmember Wozniak requested the removal of Consent Agenda 4-F (Resolution Authorizing the City of Belmont to Apply for a Grant from the National Fitness Campaign for a Fitness Court at the Barrett Community Center) for separate consideration. City Clerk Cook noted that she received requests from members of the public on this item as well.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Regular Meeting of February 14, 2012 and Special Meeting of March 1, 2012 (Commission Interviews)

Motion to Receive Monthly Financial Reports

Approval of Resolution 2012-022 Approving Specifications, Authorization to Advertise, and Award a Purchase Contract to the Lowest Responsible Bidder for the Acquisition and Outfitting of a 2012 Chevrolet Tahoe Police Vehicle for an Amount not to Exceed \$50,000

Approval of Resolution 2012-023 Authorizing Payment of Two Invoices from Telstar Instruments, Inc. for the Emergency Electrical Work at San Juan Sewer Pump Station for an Amount not to Exceed \$15,958

Approval of Resolution 2012-024 Authorizing a Purchase Order for Unleaded Gasoline and Diesel Fuel from Olympian Oil Company for an Amount not to Exceed \$25,000

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, the Consent Agenda was unanimously approved, as amended, by a show of hands.

ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Authorizing the City of Belmont to Apply for a Grant from the National Fitness Campaign for a Fitness Court at the Barrett Community Center

In response to Councilmember Wozniak's questions, Parks and Recreation Director Gervais explained that other locations for this equipment were analyzed, and Barrett was chosen due to its ability to accommodate the size of the court, and the need for a flat lot. He noted that the Fitness Court is modern and would not be appropriate for Twin Pines Pine Park. He also explained that the commitment would be for five years, and that the equipment can be removed from the surface, leaving the surface available for other uses.

Councilmember Wozniak recommended leaving the location for this equipment open in the grant application, as residents in other parts of the City might want it to be located elsewhere. She noted that the McDougal Park neighbors have been requesting improvements to that park.

Councilmember Braunstein stated that he had initial concerns regarding its location at Barrett due to the multiple uses of that facility but was now more comfortable due to the ability to relocate the equipment in the future. He recommended performing outreach before its installation.

Parks and Recreation Director Gervais explained that should the grant be awarded, the Parks and Recreation Commission will further review this matter prior to installation.

Councilmember Lieberman noted that the grant requires sponsorship signage to be installed on the equipment.

Rich Bortoli, Parks and Recreation Commissioner, noted that this item was brought to the Commission in February. He explained that it was approved, but serious questions and concerns were raised. He noted that staff provided some answers subsequent to the meeting, but he explained that he still has concerns regarding safety and the color of the equipment. He noted that the company was unable to cite any cities where the equipment was already installed. He noted that the City's obligation is for five years and an expenditure of \$45,000. He stated that he supported this grant but still wants to vet it further.

In response to Council questions, Parks and Recreation Director Gervais noted that the color of the Fitness Court and equipment is unchangeable. He explained that further vetting could be managed. He also explained that this is a new campaign with new equipment for this company, and that one of the courts has been installed at Treasure Island.

Margo Cheechoy, Parks and Recreation Commission Chair, expressed concerns regarding the cost to the City and the time commitment, both of which are extensive. She stated that if volunteers are unavailable, City staff would need to be hired to fulfill the time commitment. She explained that there is a need to have someone on hand to instruct people on how to use the equipment.

Judy King, Parks and Recreation Commissioner, stated that she shares the same concerns with regard to maintenance, supervision, safety, and the proximity of this equipment to young children. She noted that it is not designed for kids. She is also concerned with liability in the event of injury. She stated that she wanted the Commission to further discuss this matter before moving forward.

Mayor Warden stated that there is a disparity between the recommendation to proceed and the comments expressed by the Commissioners, one of whom voted yes on this matter.

Parks and Recreation Director Gervais clarified that staff would install a fence to keep young children away. He explained that the goal is to provide something for adults. He concurs with the need to further address issues and concerns, and noted that tonight's action approves the application for a grant with no commitment to install. He noted that the deadline to apply is March.

Margo Cheechov, Parks and Recreation Commission Chair, explained that the application process runs from March 15 through May 1. She stated that she had requested further discussion by the Parks and Recreation Commission, and was advised by staff that the vote was taken and the issue closed, and the March meeting was cancelled.

Councilmember Lieberman expressed concern about losing the basketball court and the loss of future grant opportunities if a grant is awarded and subsequently turned down. He stated he would support the grant application but wants to take the time to vet issues.

Councilmember Wozniak stated that there is insufficient time to research this matter, and concerns could be mitigated if the equipment were to be located elsewhere. She expressed support for applying for the grant but to do more research and to move cautiously.

Councilmember Feierbach expressed concerns with congestion of uses that already exists at Barrett.

Councilmember Braunstein stated that he is not comfortable with this proposal and he would have preferred more vetting. He noted that safety, staffing and costs are not minor concerns.

In response to Councilmember Lieberman, Parks and Recreation Director Gervais stated that the Sports Complex was not a viable alternate location due to visibility issues and concerns for vandalism. He noted that Barrett is more visible, and other improvements at the Sports Complex could be impeded.

Mayor Warden stated that he cannot support this proposal. He noted that this should be about what the community wants, not what staff or the City Council wants. He noted that he would support it if the Parks and Recreation Commission were more in favor. He suggested more public outreach be performed.

Rich Bortoli, Parks and Recreation Commissioner, stated that the 7-2 vote by the Commission was due to time pressure. He noted that the contractor responded to questions but he continues to have concerns.

ACTION: Councilmember Wozniak made a motion, seconded by Councilmember Lieberman, to approve a Resolution Authorizing the City of Belmont to Apply for a Grant from the National Fitness Campaign for a Fitness Court at the Barrett Community Center. Motion failed on a vote of 2-3 (Warden, Feierbach, Braunstein no).

OLD BUSINESS

Review of City Council Protocols (held over from February 14, 2012)

City Clerk Cook stated that the Council Protocols is a document that governs how the City Council conducts its business. It was initially adopted in 1999 and has been amended a number of times since then to capture new practices and procedures. She outlined areas that were recommended to be modified. She suggested removing verbiage related to the details of the order of the agenda, since it is likely that all agency agendas would be combined into a new agenda template.

City Clerk Cook noted that references to the Redevelopment Agency and the Belmont-San Carlos Fire Department would be eliminated, since those agencies no longer exist. She suggested that the detailed verbiage outlining the regulations for teleconferencing be eliminated, and instead include the Government Code citation.

Councilmember Wozniak suggested creating a hyperlink for the Government Code citations.

City Attorney Rennie outlined the regulations on how to comply with the Brown Act for posting of the agenda at the location of a teleconferencing council member. He explained that it is sufficient to post in the lobby of a hotel, and that the posting does not need to occur 72 hours in advance such as is required for posting at the host location. He clarified that the law requires that posting be done sufficiently in advance for the public to know about the meeting, and that time could be flexible. He noted that the City Council could establish a rule for the posting time requirement for the teleconference location, and he recommended six hours.

Mayor Warden noted that the City Council has received different legal advice over the years regarding this issue.

City Clerk Cook suggested that the City Council adopt Rosenberg's Rules of Order for governing the meeting procedures, rather than Robert's Rules. She noted that Rosenberg's is more closely aligned with existing practice of the City Council.

City Attorney Rennie clarified that Rosenberg's gives more latitude to the Chair with regard to procedural matters, and that the rules are shorter, clearer, and simpler, and are consistent with Brown Act Requirements. He noted that Robert's Rules were designed for parliament, many provisions of which are not applicable to municipalities.

Council concurred to adopt Rosenberg's Rules of Order. City Clerk Cook suggested that the City's commissions also adopt these rules for their own meetings.

City Attorney Rennie recommended adding language to address the use of the AV equipment by members of the public during public comment. He recommended prohibiting its use, and explained that there is no legal requirement to allow its use. He noted that some cities that allow the use of AV equipment will turn off the broadcast if the meeting is televised and webcast.

In response to Mayor Warden, City Attorney Rennie explained that when an item is placed on the agenda, such as a special presentation, it is message or speech that the City endorses. He stated that this is different from someone speaking at public comment.

Council concurred to prohibit the use of AV equipment during public comment.

Discussion ensued regarding the capturing of email sent to the City Council group email for the record.

City Manager Scoles noted that sometimes it is not being forwarded to anyone at staff level.

City Attorney Rennie stated that there is a difference between individual email and group email.

Councilmember Feierbach recommended adding the city manager to the group email, but expressed concern that the public be made aware that the email is going to other people in addition to the City Council.

City Manager Scoles cautioned Council not to use "reply all" when responding, or it could constitute a serial meeting. City Attorney Rennie suggested that the City Council exercise care that the person the Councilmember is responding to does not share with all. He noted that some cities have asked their City Councils not to respond but to allow staff to handle the email.

Council concurred to add the City Manager to the City Council's group email.

Discussion ensued regarding the verbiage governing the reading of ordinances. City Attorney Rennie explained that the requirement is to read the title and then to waive further reading. He noted that he would provide better language to clarify this matter.

Councilmember Feierbach expressed concern with polling the audience or instances where individual Councilmembers enter into conversation with audience members. She also expressed concern when audience members applaud.

Mayor Warden stated that the Chair has latitude, and it is sometimes beneficial to poll for procedural issues such as determining how many people are in attendance for which items on the agenda. He noted that the Chair has the authority to impose decorum.

Discussion ensued regarding retention of electronic meeting recordings. City Attorney Rennie recommended retaining these records in accordance with the records retention schedule.

Councilmember Wozniak noted that the Protocols do not address whether or not the Mayor has authority to add items to the agenda other than through the Item 9 process.

Mayor Warden stated that the Mayor does not have any authority to add other than through that process. He clarified that the Mayor has some authority on where and when items would be added through the agenda setting process.

Council concurred to add the Mayor's title to the section describing how agenda requests are made by Councilmembers.

Councilmember Wozniak noted that other cities include regulations regarding City Council attendance. She noted that this is also an issue for commissioners.

Mayor Warden noted that the issue is enforcement.

City Clerk Cook explained that attendance is addressed in the ordinances governing commissions, but enforcement is vague.

Council concurred to have staff provide an annual absence report for its commissioners.

RECESS: 9:50 P.M.

RECONVENE: 9:55 P.M.

Mayor Warden suggested tabling any further discussion on this topic and to have staff return to Council with a red line version of the protocols capturing the changes discussed thus far.

NEW BUSINESS

Informational Report on City Council Member Compensation and Benefits

Human Resources Director Dino stated the Belmont City Council took action in 1997 to approve health and welfare benefits comparable to the mid-management labor group, and there have been no adjustments since. She explained that the \$390 salary was set in 1995.

Human Resources Director Dino outlined the salary and benefits provided to councilmembers in comparison cities, and noted that Belmont's stipend is the third lowest of those 11 cities. She reviewed retirement benefit packages, and noted that some cities have tiered programs. She explained that for medical benefits, some cities have cafeteria plans whereas others directly pay premiums at varying levels. She described cash out and deferred compensation plans, and noted that in some cities, including Belmont, excess monies can be deferred, and in others those monies are forfeited.

Human Resources Director Dino described the process for calculating retiree health benefits following vesting at five years. She explained that after twelve years, Belmont employees receive the monthly amount set for the Kaiser premium. She noted that some cities have no retiree benefits for councilmembers, and some cities provide other miscellaneous benefits such as cell phone, car allowance, computers, laptops and iPads.

In response to Council questions, Human Resources Director Dino clarified that if a councilmember is already a member of PERS (Public Employee Retirement System), he or she cannot receive additional service credit. She also clarified that councilmembers who are part of the State Teachers Retirement Service (STRS) can receive the PERS benefit if qualified in Belmont.

Councilmember Feierbach stated that this discussion may need to be postponed until negotiations are complete.

City Manager Scoles noted that the PERS amount is based on the salary of \$390 and is not affected by health care benefits. Human Resources Director Dino clarified that the City contribution to PERS is 13 percent.

Councilmember Wozniak requested that the total compensation cost of other cities for councilmember benefits be provided. She also requested clarification as to how cities are setting those benefits.

Councilmember Lieberman stated that in 1997, the City Council granted itself a benefit similar to those given to full-time employees, and that the purpose should be to offer benefits, not to supplement income. He does not support paying for benefits after the councilmember leaves office. He noted that the City of Burlingame has an incentive for councilmembers who waive health insurance.

MEETING EXTENSION: At this time, being 10:30 P.M., on a motion by Councilmember Feierbach, seconded by Councilmember Lieberman, the meeting was unanimously extended for 30 minutes by a show of hands.

Councilmember Feierbach stated that the City Council could consider separating itself as a group from the mid-management unit.

Mayor Warden stated that he does not want to bias the upcoming labor negotiations by making comments. He noted that in the private sector, part-time employees usually do not receive benefits. He commented that the amount of benefits for Belmont councilmembers is in the middle of the health benefit amount of other cities, and the stipend is at the low end. He noted that some cities pay for benefits for retired councilmembers, with some paying after being vested for five years. He stated that Belmont councilmembers do not receive a car allowance or other miscellaneous benefits. He concurred with the recommendation that this matter be deferred until negotiations are completed.

Councilmember Wozniak noted that the Council stipend and benefits have not increased since 1995 and 1997. She stated that Councilmembers should be treated differently from part-time employees. She cited the need to have some benefit, and commented that no one takes the job of Councilmember based on benefits. She suggested consideration for increasing the stipend and decreasing other benefits, and potentially removing the PERS benefit, which is a minimal amount.

City Attorney Rennie clarified that State law provides that any change in salary cannot go into effect until the next election cycle, and that if a Councilmember is vested, or will be vested during the current term, this could be problematic due to a potential conflict of interest. He recommended consideration for changes to be effective for newly elected or those who will not become vested until after the next election cycle.

Councilmember Feierbach noted that any Councilmember who does not wish to accept the benefit can defer it or give it to charity. She stated that Councilmembers put in many hours of work and should receive some level of compensation.

ACTION: Councilmember Feierbach made a motion to defer this matter until labor negotiations are complete.

Councilmember Wozniak suggested continuing to a date certain following negotiations.

Mayor Warden expressed support for separating salary from benefits, and concurred with the suggestion to defer any decision regarding benefits until after negotiations are complete. He stated that there is a need to negotiate in a fair and unbiased way. He noted that Councilmembers can always refuse benefits.

Councilmember Lieberman expressed support for consideration of a resolution to disconnect Council health and welfare benefits from the mid-management labor group. He also expressed support for fewer benefits than those received by the mid-management labor group. He stated that this is a matter of policy, regardless of whether or not an individual councilmember chooses to take the benefit.

City Attorney Rennie explained that State law places a ceiling on Council benefits to the most generous benefit package provided for non-safety employees.

ACTION: Councilmember Braunstein seconded the previous motion made by Councilmember Feierbach to defer action on this matter until after negotiations are complete.

ACTION: On a substitute motion by Councilmember Lieberman, seconded by Councilmember Braunstein, to direct staff to draft a resolution which uncouples the health and welfare benefits of the City Council from those of the mid-management labor group, said motion failed on a vote of 2-3 (Councilmembers Wozniak and Feierbach and Mayor Warden voting no).

ACTION: On the original motion made by Councilmember Feierbach, Councilmember Wozniak offered a friendly amendment to include direction to seek information regarding how other cities set their Council benefits, and what the result would be if Council benefits are decoupled from mid-management.

Mayor Warden noted that it appears that most cities are providing benefits commensurate with those provided to other employee groups.

Councilmember Feierbach accepted the friendly amendment.

ACTION: On the original motion, amended by Councilmember Wozniak, said motion unanimously passed by a show of hands.

Human Resources Director Dino clarified that the additional pay of \$60 per meeting listed on the information provided to the City Council is incorrect. She noted that this amount should have been reflected as \$30, and that this amount will cease since it was related to meetings of the Redevelopment Agency, which no longer exists.

MEETING EXTENSION: At this time, being 11:00 P.M., on a motion by Councilmember Wozniak the meeting was extended for 30 minutes by a show of hands (4-1, Lieberman no).

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Resolutions Making Appointments to the Planning, Finance and the Parks and Recreation (Adult and Youth) Commissions, and Appointment of the At-Large Member of the Tree Board

City Clerk Cook noted that staff was prepared for multiple rounds of balloting if needed. She clarified that the term for the Tree Board member was three years, and that candidates must receive at least three votes to be appointed.

Councilmember Lieberman stated that although he was absent for two of the interview sessions, he reviewed the audio recording. He explained that he had technical issues with one of the CD's.

City Clerk Cook distributed ballots for the Planning Commission. She announced that following the first round, Kristin Mercer received five votes and Rick Frautschi received three votes. She noted that none of the other applicants received sufficient votes to be appointed. Following round two, she announced that none of the candidates received three votes. Following the third round of balloting, she announced that Mark Herbach received three votes.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, Resolution 2012-025 Appointing Mercer, Frautschi and Herbach to the Planning Commission was unanimously approved by a show of hands.

City Clerk distributed ballots for the Finance Commission. She announced that following the first round, Lynnel Callagy received four votes and Tracy Patel and Thomas McCune each received five votes.

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Feierbach, Resolution 2012-026 Appointing Callagy, Patel and McCune to the Finance Commission was unanimously approved by a show of hands.

City Clerk Cook distributed ballots for the Youth members of the Parks and Recreation Commission. She announced that following the first round, Pantea Zakeri received five votes,

and both of the other candidates received three votes, resulting in a tie. Following round two, she announced that Alexander Bartee received four votes.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Braunstein, Resolution 2012-027 Appointing Zakeri and Bartee as Youth members of the Parks and Recreation Commission was unanimously approved by a show of hands.

City Clerk Cook distributed ballots for the Adult members of the Parks and Recreation Commission. She announced that following the first round, Thaddeus Block, Timothy Wong and Richard Sullivan each received three votes.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Feierbach, Resolution 2012-028 Appointing Block, Wong and Sullivan as Adult members of the Parks and Recreation Commission was unanimously approved by a show of hands.

City Clerk Cook distributed ballots for the Tree Board. She announced that following the first round, Karl Mittelstadt received four votes.

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Lieberman, Resolution 2012-029 Appointing Mittelstadt as the at-large member of the Tree Board was unanimously approved by a show of hands.

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

No reports were made.

Verbal Report from City Manager

City Manager Scoles provided a brief update on the repairs taking place at Fire Station 15 at Cipriani Boulevard. He noted that the International Association of Fire Fighters (IAFF) Local 2400 has been formally recognized, as has the Fire Management group for the Battalion Chiefs. He also noted that collective bargaining has begun for MMCEA and AFSCME. He described an incident that occurred during tree removal at Twin Pines Park wherein a portion of the tree hit the vehicle of a staff member.

ADJOURNMENT at this time, being 11:20 P.M.

**Terri Cook
City Clerk**